

1 in this misconduct knowingly and in violation of the United States copyright laws.

2 **PARTIES**

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4 5. Plaintiff Justin Buell is an individual who is a citizen of the State of
5 California and maintains a principal place of business 120 Redwood Ave, #1, Corte
6 Madera in Marin County, California.

7
8 6. Upon information and belief, Defendant Sneaker Bar Detroit LLC, is a
9 Michigan limited liability company with a principal place of business at 48516
10 Boardwalk Drive, Macomb in Macomb County, Michigan and is liable and
11 responsible to Plaintiff based on the facts herein alleged.

12 **JURISDICTION AND VENUE**

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14 7. This Court has subject matter jurisdiction over the federal copyright
15 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

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17 8. This Court has personal jurisdiction over Sneaker Bar Detroit LLC
18 because it maintains its principal place of business in Michigan.

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20 9. Venue is proper under 28 U.S.C. §1391(a)(2) because Sneaker Bar
21 Detroit LLC does business in this Judicial District and/or because a substantial part
22 of the events or omissions giving rise to the claim occurred in this Judicial District.

23 **FACTS COMMON TO ALL CLAIMS**

24
25 10. Plaintiff is a professional photographer by trade who is the legal and
26 rightful owners of photographs which Plaintiff licenses to online and print
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1 publications.

2 11. Plaintiff has invested significant time and money in building Plaintiff's
3 photograph portfolio.
4

5 12. Plaintiff has obtained active and valid copyright registrations from the
6 United States Copyright Office (the "*USCO*") which cover many of Plaintiff's
7 photographs while many others are the subject of pending copyright applications.
8

9 13. Plaintiff's photographs are original, creative works in which Plaintiff
10 owns protectable copyright interests.
11

12 14. Sneaker Bar Detroit LLC is the registered owner of the Website and is
13 responsible for its content.
14

15 15. Sneaker Bar Detroit LLC is the operator of the Website and is
16 responsible for its content.
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18 16. The Website is a popular and lucrative commercial enterprise.

19 17. The Website is monetized in that it contains paid advertisements and,
20 upon information and belief, Defendant profits from these activities.

21 18. Furthermore, the Website expands its online footprint via its collective
22 social media accounts which directly promote the Website whereby Defendant, in
23 the aggregate has roughly 523,500 user connections.
24

25 19. On October 09, 2015, Plaintiff Justin Buell authored a photograph of
26 musician Kayne West gifting former President Barrack Obama a pair of West's
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1 popular designer footwear (the “*Photograph*”). A copy of the Photograph is attached
2 hereto as Exhibit 1.

3
4 20. The Photograph was registered by the USCO on July 23, 2018 under
5 Registration No. VA 2-117-120.

6
7 21. On August 12, 2019, Plaintiff observed the Photograph on the Website
8 in a blog post dated January 10, 2016. A copy of the screengrab of the Website
9 including the Photograph is attached hereto as Exhibit 2.

10
11 22. The Photograph was displayed at URL:
12 <https://sneakerbardetroit.com/celebrity-weekly-rotation-1-7-16/3/>.

13
14 23. The Photograph was stored at URL:
15 [https://sneakerbardetroit.com/wp-content/uploads/2016/01/barack-obama-](https://sneakerbardetroit.com/wp-content/uploads/2016/01/barack-obama-adidas-yeezy-boost-350-pirate-black.png)
16 [adidas-yeezy-boost-350-pirate-black.png](https://sneakerbardetroit.com/wp-content/uploads/2016/01/barack-obama-adidas-yeezy-boost-350-pirate-black.png).

17
18 24. Without permission or authorization from Plaintiff, Defendant
19 volitionally selected, copied, stored and/or displayed Plaintiff’s copyright protected
20 Photograph as is set forth in Exhibit “1” on the Website.

21
22 25. Upon information and belief, the Photograph was copied, stored and
23 displayed without license or permission, thereby infringing on Plaintiff’s copyrights
24 (hereinafter the “*Infringement*”).

25
26 26. The Infringement includes a URL (“*Uniform Resource Locator*”) for a
27 fixed tangible medium of expression that was sufficiently permanent or stable to
28

1 permit it to be communicated for a period of more than a transitory duration and
2 therefore constitutes a specific infringement. *17 U.S.C. §106(5); Perfect 10, Inc. v.*
3 *Amazon.com, Inc.* 508 F.3d 1146, 1160 (9th Cir. 2007).
4

5 27. The Infringement is an exact copy of the entirety of Plaintiff's original
6 image that was directly copied and stored by Defendant on the Website.
7

8 28. Upon information and belief, Defendant's selection of Plaintiff's image
9 was due to the fact that Plaintiff's image depicted two high profile individuals, a
10 former United States President as well as a highly popular musician in relation to the
11 proliferation of high-end footwear, the focus of Defendant's Website.
12

13 29. Upon information and belief, Defendant takes an active and pervasive
14 role in the content posted on its Website, including, but not limited to copying,
15 posting, selecting, commenting on and/or displaying images including but not
16 limited to Plaintiff's Photograph.
17

18 30. Upon information and belief, Defendant directly contributes to the
19 content posted on the Website by, inter alia, directly employing reporters, authors
20 and editors as its agents, including but not limited to Mario Briguglio whereby
21 Defendant's Website lists him as an "Author" and "Founder" ("*Employees*").
22

23 31. Upon information and belief, Mario Briguglio is the sole contributor to
24 Defendant's Website as well as the principal administrator of the Website.
25

26 32. Upon information and belief, at all material times the Employees were
27
28

1 acting within the course and scope of their employment when they posted the
2 Infringement.

3
4 33. Upon information and belief, at all material times the Employees were
5 acting within the course and scope of their employment when they posted the
6 Infringement.

7
8 34. Upon information and belief, at all material times the Employees were
9 acting within the course and scope of their agency when they posted the
10 Infringement.

11
12 35. Upon information and belief, the Photograph was willfully and
13 volitionally posted to the Website by Defendant.

14
15 36. Upon information and belief, Defendant is not registered with the
16 United States Copyright Office pursuant to 17 U.S.C. §512.

17
18 37. Upon information and belief, the Infringement was not posted at the
19 direction of a “user” as that term is defined in 17 U.S.C. §512(c).

20
21 38. Upon information and belief, Defendant engaged in the Infringement
22 knowingly and in violation of applicable United States Copyright Laws.

23
24 39. Upon information and belief, Defendant has the legal right and ability
25 to control and limit the infringing activities on its Website and exercised and/or had
26 the right and ability to exercise such right.

27
28 40. Upon information and belief, Defendant monitors the content on its

Website.

41. Upon information and belief, Defendant has received a financial benefit directly attributable to the Infringement.

42. Upon information and belief, the Infringement increased traffic to the Website and, in turn, caused Defendant to realize an increase in its advertising revenues.

43. Upon information and belief, a large number of people have viewed the unlawful copies of the Photograph on the Website.

44. Upon information and belief, Defendant at all times had the ability to stop the reproduction and display of Plaintiff's copyrighted material.

45. Defendant's use of the Photograph, if widespread, would harm Plaintiff's potential market for the Photograph.

46. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

FIRST COUNT

(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)

47. Plaintiff repeats and incorporates by reference the allegations contained in the preceding paragraphs, as though set forth in full herein.

48. The Photograph is an original, creative work in which Plaintiff owns valid copyright properly registered with the United States Copyright Office.

49. Plaintiff has not licensed Defendant the right to use the Photograph in

1 any manner, nor has Plaintiff assigned any of its exclusive rights in the copyrights
2 to Defendant.

3
4 50. Without permission or authorization from Plaintiff and in willful
5 violation of Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and
6 illegally copied, stored, reproduced, distributed, adapted, and/or publicly displayed
7 works copyrighted by Plaintiff thereby violating one of Plaintiff's exclusive rights in
8 its copyrights.

9
10 51. Defendant's reproduction of the Photograph and display of the
11 Photograph constitutes willful copyright infringement. *Feist Publications, Inc. v.*
12 *Rural Telephone Service Co., Inc.*, 499 U.S. 340, 361 (1991).

13
14 52. Plaintiff is informed and believes and thereon alleges that the
15 Defendant willfully infringed upon Plaintiff's copyrighted Photograph in violation
16 of Title 17 of the U.S. Code, in that they used, published, communicated, posted,
17 publicized, and otherwise held out to the public for commercial benefit, the original
18 and unique Photograph of the Plaintiff without Plaintiff's consent or authority, by
19 using it in the infringing article on the Website.

20
21 53. As a result of Defendant's violations of Title 17 of the U.S. Code,
22 Plaintiff is entitled to an award of actual damages and disgorgement of all of
23 Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504
24 in an amount to be proven.
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JURY DEMAND

55. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully requests judgment as follows:

That the Court enters a judgment finding that Defendant has infringed on Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 et seq. and awards Plaintiff the following equitable and monetary relief as follows:

- a. finding that Defendant infringed upon Plaintiff's copyright interest in the Photograph by copying and displaying without a license or consent;
- b. for an award of actual damages and disgorgement of all of Defendant's profits attributable to the infringement as provided by 17 U.S.C. § 504 in an amount to be proven
- c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;
- d. for costs of litigation against Defendant pursuant to 17 U.S.C. § 505;

- 1 e. for pre judgment interest as permitted by law; and
2
3 f. for any other relief the Court deems just and proper.
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5 DATED: January 28, 2022

6 **SANDERS LAW GROUP**

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